

Attachment 4

ORAL ARGUMENT SCHEDULED FOR FEBRUARY 23, 2023

No. 23-3001 (UNDER SEAL)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN THE MATTER OF THE SEARCH OF THE FORENSIC COPY OF THE
CELL PHONE OF REPRESENTATIVE SCOTT PERRY

On Appeal from the United States District Court
for the District of Columbia
Case No. 22-sc-2144 (under seal)

**APPELLANT’S REPLY TO GOVERNMENT’S OPPOSITION TO ALLOW
ACCESS TO THE SEALED RECORD BY DESIGNATED PERSONS IN
THE OFFICE OF THE GENERAL COUNSEL FOR THE
U.S. HOUSE OF REPRESENTATIVES**

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Counsel for Appellant Representative Scott G. Perry

Appellant Scott G. Perry (“Rep. Perry”), by and through his counsel, hereby replies to the Appellee Government’s opposition to his motion to allow access to the sealed record by designated persons in the Office of the General Counsel for the U.S. House of Representatives (“House Counsel”), as follows:

1. Prior to filing his motion to allow access by the House Counsel to the sealed record in this Speech or Debate case, counsel for Rep. Perry contacted the Government to resolve the issue without need for intervention by this Court. The Government declined to agree to not oppose the motion but now says in its opposition that it “would not oppose amicus participation by the House of Representatives” except insofar as the request to allow “access to the sealed record” is vague and overly broad.

2. Rep. Perry has no interest in “compromising [the Government’s] active investigation”. (Opp. at 3). He agrees that there is no need for the House Counsel to have access to documents and other information the Government deems confidential for its investigation and to which Rep. Perry does not himself have access.

3. To clarify the issue, Rep. Perry identifies the following materials that he believes would assist the House Counsel in its review and consideration whether to files an *amicus* brief in this matter:¹

¹ Counsel for Rep. Perry does not have access to ECF filings in this case. The entries below represent counsel’s best efforts to identify particular documents from references in the pleadings.

ECF No.	Date	Description
13	10/27/2022	Government's Brief Regarding the Inapplicability of the Speech or Debate Clause to Materials Seized from Rep. Perry.
15	10/31/2022	Rep. Perry's Response to the Government's Brief Regarding the Applicability of the Speech or Debate Clause.
	10/31/2022	Rep. Perry's Ex Parte Supplement to his Response to the Government's Brief.
	11/02/2022	Government's Reply Brief Regarding the Inapplicability of the Speech or Debate Clause to Materials Seized from Rep. Perry.
18	11/04/2022	Memorandum Opinion and Order
19		Government's Objections to Rep. Perry's Privilege Assertions.
21	11/28/2022	Rep. Perry's Motion for Non-disclosure.
22	11/28/2022	Rep. Perry's Ex Parte Supplement to his Motion for Nondisclosure.
24	12/28/2022	Order granting in part and denying in part Rep. Perry's Motion for Non-Disclosure (ECF No. 21).
25	12/28/2022	Memorandum Opinion (re ECF No. 24).
27	12/30/2022	Rep. Perry's Motion to Stay.
27-1	12/30/2022	Rep. Perry's Memorandum in Support of his Motion to Stay.
29	01/03/2022	Government's Opposition to Rep. Perry's Motion to Stay.
30	01/04/2023	Rep. Perry's Reply to the Government's Opposition to his Motion to Stay.
31	01/04/2023	Order denying Motion to Stay.

4. Rep. Perry further requests that he also be permitted to share with House Counsel the documents which were the subject of the District's Court's decision.

WHEREFORE, Appellant Scott G. Perry respectfully requests that this Court allow access by designated persons in the Office of the General Counsel for the U.S. House of Representatives to the parts of the sealed record in this case indicated above.

Dated: January 27, 2023

Respectfully submitted,

JProWley Law PLLC

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume requirements of Federal Rule of Appellate Procedure 27(d)(2) and complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Federal Rule of Appellate Procedure 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Office Word in 14-point Times New Roman font.

Dated: January 27, 2023

Respectfully submitted,

/s/ John P. Rowley III
John P. Rowley III

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit via email on January 27, 2023, and further that service will be accomplished by email to the following counsel for Appellee:

John M. Pellettieri
Assistant Special Counsel



Respectfully submitted,

/s/ John P. Rowley III
John P. Rowley III